

**ENTERED**

January 13, 2021

Nathan Ochsner, Clerk

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
MCALLEN DIVISION

ALBERTO MUNOZ-CEDILLO JR.

Movant,

VS.

UNITED STATES OF AMERICA,

Respondent.

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CIVIL ACTION NO. 7:20-CV-00110

CRIM. ACTION NO. 7:18-CR-1586

**ORDER ADOPTING REPORT AND RECOMMENDATION**

Before the Court is Movant Alberto Munoz-Cedillo, Jr.'s Motion to Vacate, Set Aside, or Correct sentence pursuant to 28 U.S.C. § 2255, which had been referred to the Magistrate Court for a report and recommendation. On November 27, 2020, the Magistrate Court issued the Report and Recommendation, recommending that Movant's § 2255 motion be **DENIED** pursuant to Rule 41(b) of the Federal Rules of Civil Procedure based on Movant's failure to prosecute, and that Movant's civil action be **DISMISSED**. It was further recommended that a Certificate of Appealability be **DENIED**. The time for filing objections has passed, and no objections have been filed.

Pursuant to Federal Rule of Civil Procedure 72(b), the Court has reviewed the Report and Recommendation for clear error.<sup>1</sup> Finding no clear error, the Court **ADOPTS** the Report and Recommendation in its entirety. Accordingly, Movant's § 2255 motion is **DENIED** pursuant to

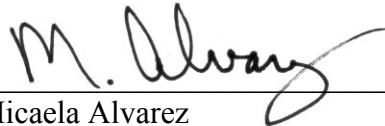
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<sup>1</sup> As noted by the Fifth Circuit, "[t]he advisory committee's note to Rule 72(b) states that, '[w]hen no timely objection is filed, the [district] court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.'" *Douglas v. United States Service Auto. Ass'n*, 79 F.3d 145, 1420 (5th Cir. 1996) (quoting Fed. R. Civ. P. 72(b) advisory committee's note (1983)) *superseded by statute on other grounds* by 28 U.S.C. § 636(b)(1), as stated in *ACS Recovery Servs., Inc. v. Griffin*, No. 11-40446, 2012 WL 1071216, at \*7 n.5 (5th Cir. April 2, 2012).

Rule 41(b). Finally, Movant's civil action is **DISMISSED**, and a Certificate of Appealability is **DENIED**.

IT IS SO ORDERED.

DONE at McAllen, Texas, this 13th day of January, 2021.

  
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Micaela Alvarez  
United States District Judge